

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE: GENERAL MOTORS CORP.
AIR CONDITIONING MARKETING
AND SALES PRACTICES
LITIGATION

Case Number: 18-md-02818

Hon. Matthew F. Leitman

ALL CASES

**ORDER (1) APPOINTING LEAD PLAINTIFFS' COUNSEL
AND (2) SETTING DATE FOR OBJECTIONS TO COMMON
BENEFIT WORK AND EXPENSES ORDER**

On February 20, 2018, the Court entered an order scheduling an initial status conference to be held on April 10, 2018. (*See* ECF #3.) In the order, the Court, among other things, invited counsel for any Plaintiff (1) to submit an application to serve as lead counsel and (2) to address whether the Court should appoint liaison counsel for Plaintiffs and/or a steering committee of counsel for Plaintiffs. (*See id.* at Pg. ID 15-16.)

In response to the order, the Court received two lead counsel applications. In one application, E. Powell Miller, Annika K. Martin, Bryan L. Clobes, and Joseph Sauder (collectively, the “Miller Group”) jointly request that the Court appoint them Co-Lead Counsel. (*See* ECF #9.) The Miller Group recommends against appointing liaison counsel and against creating any formal designated committees. (*See id.* at Pg. ID 77-78.)

In a second application, Dennis C. Reich requests that the Court appoint him Co-Lead Counsel. (*See* ECF #10.) Reich also states that Richard Schechter, Gary Mason, Scott Nealey, Stephen Hansen, and Charles Hunter (together with Reich, the “Reich Group”) will work with him as counsel in this case. (*See id.* at Pg. ID 278-79.) In a separate filing, Reich, Schechter, and Ernest “Bo” Hopmann, III propose a leadership structure with one lead counsel, two co-lead counsel, and an executive committee/steering committee with two or three members. (*See* ECF #7.)

The Court has carefully reviewed the applications. In addition, at the status conference on April 10, 2018, the Court posed follow-up questions to Mr. Miller and Mr. Reich concerning their respective proposals. Based upon the Court’s review of the applications and its consideration of the attorneys’ statements at the status conference, **IT IS HEREBY ORDERED** that:

1. The individual attorneys who comprise the Miller Group (E. Powell Miller, Annika K. Martin, Bryan L. Clobes, and Joseph Sauder) are appointed Co-Lead Counsel for Plaintiffs in this action. While the Court was impressed with the Reich Group’s qualifications and experience, the Court concludes that the Miller Group is best suited to serve as lead counsel. The Miller Group has been investigating the alleged defects at issue in this action and preparing the case against the Defendants for substantially longer than the Reich Group, and the Court believes that the Miller Group is thus best positioned to immediately begin moving the action forward in the most efficient and timely

manner. In addition, the Miller Group has demonstrated the ability to work cooperatively with most of the counsel representing the various Plaintiffs in this action. Indeed, nearly all of the attorneys other than those in the Reich Group support the Miller Group's application to serve as Co-Lead Counsel for Plaintiffs. Moreover, the Court is satisfied that the Miller Group has sufficient geographic diversity to effectively represent all Plaintiffs and that the group has access to Texas lawyers who can consult, if necessary, on any issues of Texas law. Finally, the Miller Group is exceptionally well-qualified to handle the representation of Plaintiffs. The attorneys in the Miller Group have substantial relevant experience and have achieved outstanding results for clients in similar actions.

2. The Court declines to appoint liaison counsel and declines to appoint a steering committee of counsel for Plaintiffs. At this time, this action is not sufficiently large or complex to warrant the appointment of liaison counsel or a steering committee. The Court believes that the Miller Group can and will effectively perform functions that would otherwise be performed by liaison counsel and/or a steering committee.
3. As Co-Lead Counsel, the attorneys in the Miller Group shall have the following duties:
 - Establish and maintain a depository for orders, pleadings, hearing transcripts, and all documents served upon Plaintiffs' counsel, and make such papers available to Plaintiffs' counsel upon reasonable request;

- Initiate and conduct discovery on behalf of all Plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure and any order of this Court;
- Designate counsel to communicate with Defendants' counsel, various Plaintiffs' counsel, and a mediator (if one is appointed);
- Determine and present, personally or by a designee, in briefs, oral argument, or such other fashion as may be appropriate, the position of the Plaintiffs on all matters arising during pretrial proceedings;
- Conduct settlement negotiations on behalf of Plaintiffs, but not enter into binding agreements except to the extent expressly authorized;
- Delegate specific tasks to other counsel in a manner that ensures pretrial preparation for the Plaintiffs is conducted effectively, efficiently, and economically;
- Enter into stipulations with opposing counsel as necessary;
- Maintain adequate time and disbursement records in compliance with the Court's forthcoming order establishing rules and guidelines for work done and expenses incurred to the common benefit of Plaintiffs;
- Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
- Maintain and regularly distribute to co-counsel, to Defendants' counsel, and to the Court an up-to-date list of individuals and counsel who are required to receive service of all filings in this action;
- Receive and, as appropriate, distribute to co-counsel orders from the Court and documents from Defendants and Defendants' counsel;
- Assist in the scheduling of discovery, meetings, and hearings and assist in resolving scheduling conflicts among the parties;
- If parallel state court cases are filed, coordinate, as appropriate, the pretrial activities in this proceeding with parallel state court litigation involving the product defects alleged in master complaint to be filed in this case;

- Perform such other duties as may be incidental to proper coordination of the Plaintiffs' pretrial activities or authorized by further order of the Court; and
 - Submit, if appropriate, suggestions for establishing additional committees and counsel for designation by the Court.
4. The Court next intends to enter an order establishing rules and guidelines for work done and expenses incurred to the common benefit of Plaintiffs in this action. As discussed at the initial status conference, the Court proposes to use as a template for this order Pretrial Order No. 3, Dkt. #17, *In re: FCA US LLC Monostable Electronic Gearshift Litig.*, Case No. 16-md-02744 (E.D. Mich.). If any party objects to the Court's use of that order (or any particular rule or guideline set forth therein), that party shall file its objections by **not later than April 25, 2018.**

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: April 11, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 11, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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